

The record in this case consists of the documents of record on file with the Division of Workers Compensation including the transcript of the Preliminary Hearing held on the 23rd day of August, 1994, before Administrative Law Judge Nelsonna Potts Barnes and the exhibits attached thereto.

**ISSUES**

This is an appeal from an Order of the Administrative Law Judge awarding benefits to the claimant and ordering the payment of same by St. Paul Insurance Company for an injury occurring during the coverage provided respondent by St. Paul Insurance Company.

- (1) Did claimant suffer accidental injury arising out of and in the course of her employment during the coverage period of St. Paul Insurance Company, March 1, 1994 to March 1, 1995?

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based upon the evidence presented and for the purposes of preliminary hearing the Appeals Board finds as follows:

(1) Claimant, a sewing machine operator for the respondent, developed hand and wrist problems in August, 1993, after she hit her wrist on a table. She informed her supervisor but obtained no medical care as the injury did not seem significant at the time. Several weeks later a knot formed on claimant's wrist. Claimant's problems continued to worsen until, in February, 1994, when she was moved to a trainer position. This job required less repetitious use of her hand and her symptomatology decreased. After the trainer job claimant was moved to lead person, another less hand intensive job, allowing claimant's condition to further improve.

In June, 1994, claimant was returned to a full time sewing position. This increase in hand intensive labor caused claimant's symptoms to worsen and claimant sought medical treatment.

The claimant testified that her condition did improve when not sewing full time indicating the aggravating factor to claimant's condition was at least partially removed. The return to full time sewing increased claimant's pain and problems with her hands indicating the aggravating factor had returned.

The respondent's insurance carrier, St. Paul Insurance Company, alleges claimant's injury occurred in August, 1993, with claimant suffering no injury during respondent's coverage in 1994. The Appeals Board finds this position is not supported by the weight of the evidence. Claimant's condition improved when she switched from the hand intensive labor of sewing to the easier trainer and lead positions. It was during the coverage by St. Paul Insurance Company that claimant returned to the hand intensive sewing job and her symptoms worsened. The Appeals Board finds the weight of the evidence supports the Administrative Law Judge's finding that claimant suffered accidental injury arising out of and in the course of her employment through a series of micro traumas during the period of time St. Paul Insurance Company provided insurance coverage to the respondent, Wichita Ponca Canvas.

K.S.A. 44-534a allows appeal from a preliminary hearing for the specific jurisdictional issues regarding whether the claimant suffered an accidental injury, whether the injury arose out of and in the course of claimant's employment, whether notice is given or timely claim made, or whether certain defenses apply.

In this matter the respondent contended claimant did not suffer accidental injury during the period that St. Paul Insurance Company provided coverage. This issue is one listed in K.S.A 44-534a as jurisdictional and subject to review by the Appeals Board. The remaining issues decided by the Administrative Law Judge regarding temporary total disability, outstanding medical bills and authorized medical care, are not issues listed in K.S.A. 44-534a and are not otherwise jurisdictional issues. They are not, therefore, subject to appeal to the Appeals Board. As such the Appeals Board finds that the Administrative Law Judge did not exceed her jurisdiction in ordering temporary total and medical benefits to the claimant.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Nelsonna Potts Barnes dated August 26, 1994, remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of November, 1994.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Timothy King, Attorney at Law, Wichita, Kansas  
Kim Martens, Attorney at Law, Wichita, Kansas  
Michael T. Harris, Attorney at Law, Wichita, Kansas  
Nelsonna Potts Barnes, Administrative Law Judge  
George Gomez, Director